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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In Re	)	
	)	MM Docket No. 92-148
Amendment of Section 73.202(b)	)	
	)	RM-8022
Table of Allotments,	)	
FM Broadcast Stations	)	
(Ludlow, CA)	)	

To: The Chief Allocations Branch

#### REPLY COMMENTS OF MIRACLE BROADCASTING

Miracle Broadcasting, by its attorney, pursuant to Section 1.415 of the Commission's Rules, hereby respectfully submits its reply comments in support of the Commission's Notice of Proposed Rulemaking, MM Docket No. 92-148, DA92-887, released July 15, 1992. In particular, these reply comments are addressed to a set of comments filed by KHWY, Inc. ("KHWY") on September 4, 1992. Therein, KHWY raised two putative objections to the proposed assignment. First, KHWY contended that the referenced site was unavailable. Second, KHWY submitted an engineering study purporting to demonstrate interference to and from station KOLA(FM), San Bernardino, California. Notwithstanding its objections, KHWY concludes by suggesting an alternative allotment of Channel 243B1.

As demonstrated below, neither of KHWY's concerns is relevant and there is no need to consider an alternate channel.

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1. Lack of available site - KHWY submits that the referenced site is located in a wilderness study area administered by the Bureau of Land Management of the United States Department of the Interior, and that no construction of any kind is permitted in the wilderness area. KHWY then leaps to the unwarranted conclusion that the entire surrounding area - and, by implication, the entire allowable site area for the proposed allotment - is unusable. KHWY has provided no basis for this unwarranted assumption. On the contrary, submitted herewith is a letter from Richard Fagan, the same official of the Bureau of Land Management upon whom KHWY had relied, stating that the extensive area within which the Commission's allotment criteria will be met extends well beyond the boundaries of the protected wilderness area. The Commission has routinely assumed that sites are available in BLM land not subject to special protection. See, e.g., Los Alamos, New Mexico, 7 FCC Rcd. 3249 (MMB 1992). Accordingly, petitioner has failed to demonstrate that the allotment should be denied due to the absence of any useable site.

2. KOLA interference - Citing KOLA's status as a grandfathered "super-power" station, KHWY contends that the Commission's policy is to refuse to make an allotment when it would create interference because of such a facility. KHWY Comments at page 4. In support, it cites only two relatively old cases which it considers to be good law since: "research indicates that no subsequent Commission-level case has questioned or overruled these cases." Id. at note 3. KHWY's contention is defeated by the fact that the most recent

formulation of the applicable rule itself, Section 73.209(b), specifically states:

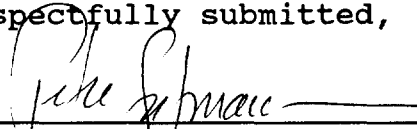
The nature and extent of the protection from interference afforded FM broadcast stations operating on Channels 221-300 is limited to that which results when assignments are made in accordance with the rules in this subpart.

The applicable rules of the subpart only address distance separation and city coverage requirements. No special protection in the rules is provided to grandfathered super-power stations. Thus, it is irrelevant that the Commission has not explicitly overruled two of its older cases suggesting protection to grandfathered stations; the very text of its revised rule has superseded whatever force the old cases may have had. Moreover, as addressed in the attached Technical Statement, the Commission's current practice is to allot fully-spaced channels notwithstanding such potential interference.

3. The Alternate Channel - The proposed allotment meets all relevant spacing and coverage requirements. KHWY has failed to rebut the presumption of available sites. It has further failed to justify the disruptive effect of an alternative channel which, as demonstrated in the attached Technical Statement, is more distant from Ludlow and affords far less area for usable sites and therefore is inherently inferior. Thus, there is no need to consider KHWY's suggestion.

In view of the foregoing, Petitioner respectfully submits that the Commission's Notice of Proposed Rulemaking in this matter should be adopted as proposed.

Respectfully submitted,

  
\_\_\_\_\_  
Peter Gutmann  
PEPPER & CORAZZINI  
1776 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-0600

Counsel for Miracle Broadcasting

September 18, 1992



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
NEEDLES RESOURCE AREA OFFICE  
101 WEST SPIKE'S ROAD  
P.O. BOX 888  
NEEDLES, CALIFORNIA 92363-0888

619/326-3896

IN REPLY REFER TO:

2860  
C069.43

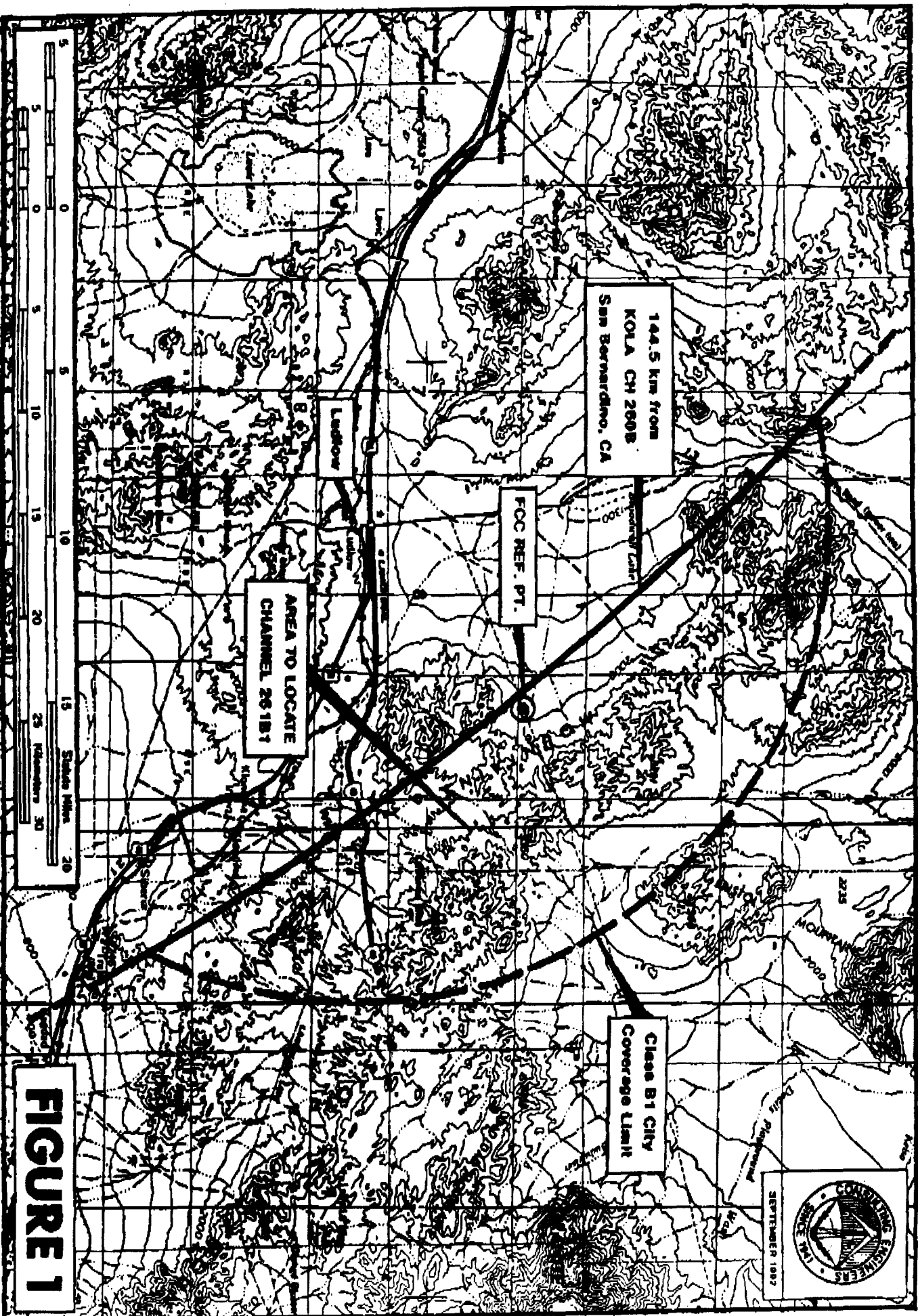
Mr. Steve Stephenson  
c/o Miracle Broadcasting, Inc.  
12370 Hisperia Rd., #17  
Victorville, CA 92393

Dear Mr. Stephenson:

In response to your inquiry, the Bureau of Land Management administers public lands within your area of interest that are not within wilderness study areas. Please refer to the attached map (Figure 1). If you need further assistance, please contact Ron Morrison at this office.

Sincerely,

Richard E. Fagan  
Area Manager, Needles



TECHNICAL STATEMENT  
IN SUPPORT OF REPLY COMMENTS OF  
MIRACLE BROADCASTING  
LUDLOW, CALIFORNIA

This technical statement and associated exhibits have been prepared on behalf of Miracle Broadcasting (Miracle) in support of reply comments in the Notice of Proposed Rule Making in MM Docket No. 92-148. The Notice was issued in response to the Petition for Rule Making filed by Miracle requesting the allotment of channel 261B1 to Ludlow, California. These reply comments were prepared in response to the opposition of KHWY, Inc.

KHWY, Inc. alleges that the reference coordinates for the channel 261B1 allotment at Ludlow, as well as the surrounding area, are located on land administered by the Bureau of Land Management (BLM) which is unavailable for use as a transmitter site. Figure 1, attached, is a 1:250,000 scale map showing the area to locate channel 261B1 at Ludlow in compliance with the Commission's rules. As set forth elsewhere in these reply comments, there is land area located within this area not subject to wilderness study area restrictions.

KHWY, Inc. proposes the allotment of channel 243B1 as an alternative to channel 261B1 at Ludlow. Figure 2 is a 1:250,000 scale map showing the area to locate for channel 243B1 at Ludlow. In comparing the two areas to locate, it is noted that the closest point of the channel 243B1 area to Ludlow is approximately 17.0 kilometers, whereas the closest point of the channel 261B1 area to Ludlow is approximately 11.5 kilometers. In addition, the channel 261B1 area contains over 10 times the land area of the channel 243B1 area.

KHWY, Inc. also alleges that the allotment of channel 261B1 at Ludlow would cause predicted interference to KOLA on channel 260B at San Bernardino, California and has a potential to cause predicted interference to KHYZ on channel 258B at Mountain Pass, California. However, Section 73.209(b) of the Commission's rules states that protection from interference "is limited solely to the protection that results from the distance separation requirements and the rules governing maximum power and antenna heights." Furthermore, the Commission routinely allots channels which significantly increase the potential for interference. Figure 3 tabulates three such allotments. One involves interference from a co-channel "superpower" Class B station and the other two involve mutual interference between stations with nominal facilities.



W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.  
1019 19th Street, N.W.  
Third Floor  
Washington, D.C. 20036  
(202) 223-6700

September 18, 1992





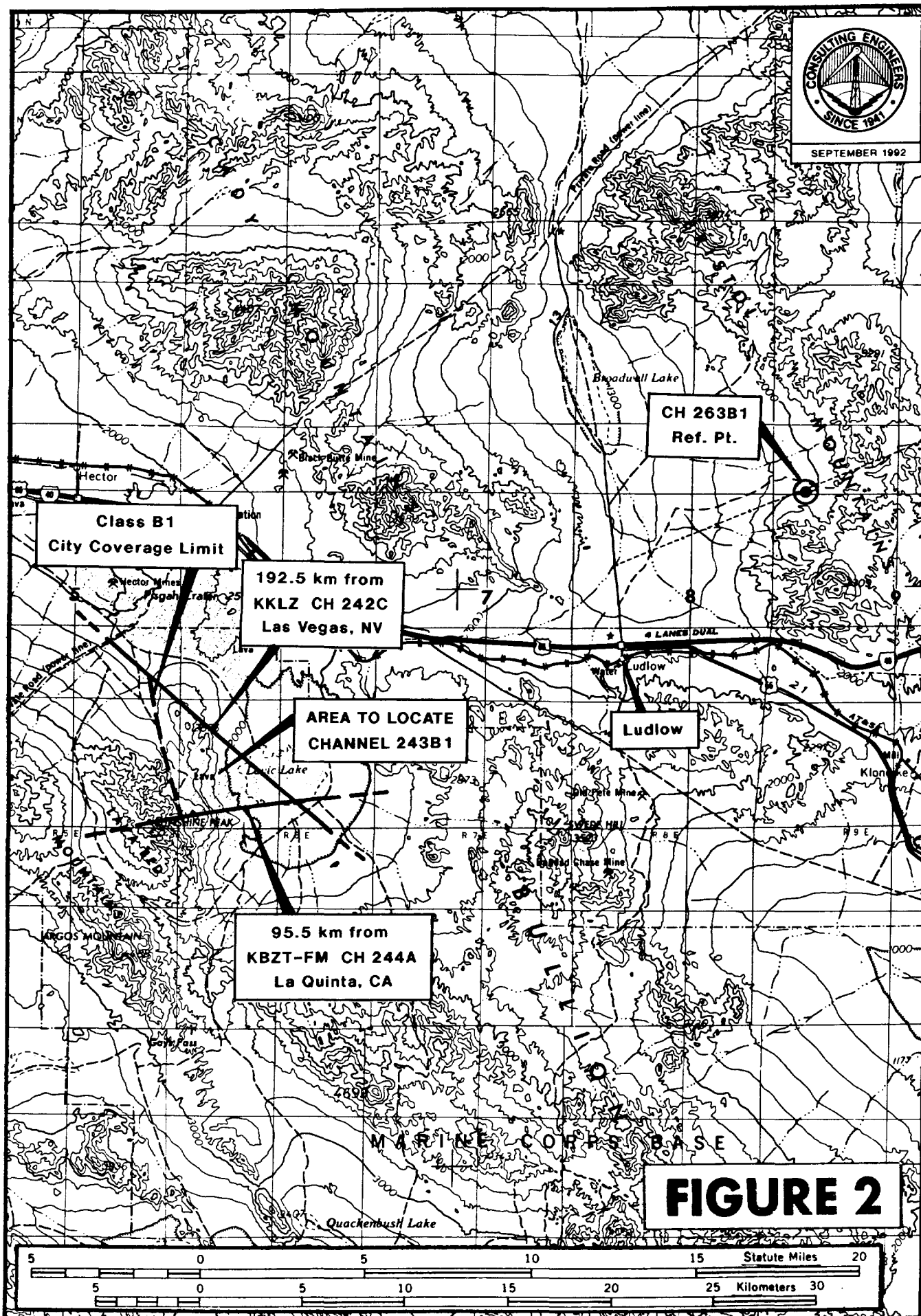
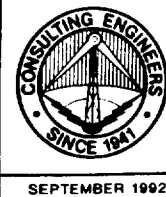


Figure 3

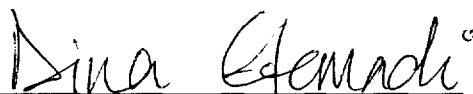
Fully-Spaced Allotments Which  
Created Significant Interference Areas

<u>Allotment</u>	<u>Interfering Station</u>	<u>1980 Population</u>	
		<u>1 mV/m</u>	<u>Interference Area</u>
1. KXHA, Ch. 282A Shafter, CA CP	KBIG, Ch. 282B Los Angeles, CA	221,576	176,486 (80%)
2. ALC, Ch. 287C1 Wickenburg, AZ	ALC, Ch. 288C2 Casa Grande, AZ	68,803	48,252 (70%)
ALC, Ch. 288C2 Casa Grande, AZ	ALC, Ch. 287C1 Wickenburg, AZ	756,467	284,417 (38%)
3. ALC, Ch. 237B1 Vacaville, CA	KRTY, Ch. 237A Los Gatos, CA	594,351	109,513 (18%)
KRTY, Ch. 237A	ALC, Ch. 237B1	1,252,857	25,304 (2%)

**Certificate of Service**

I, Dina Etemadi, a secretary with the law firm of Pepper & Corazzini, do certify that on this 18th day of September, 1992, I served copies of the foregoing "Reply Comments of Miracle Broadcasting" by U.S. Mail upon the following:

Peter A. Rohrbach, Esq.  
Marissa G. Repp, Esq.  
Hogan & Hartson  
555 13th Street, N.W.  
Washington, D.C. 20004-1109  
(Counsel for KHWY, Inc.)

  
Dina Etemadi